

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

EVAN DOSS, JR.,	)	
	)	
Petitioner,	)	
	)	
v.	)	CIVIL ACTION NO. 2:05cv111-D
	)	WO
SCOTT MIDDLEBROOKS,	)	
	)	
Respondent.	)	

**ORDER**

On April 25, 2005, Evan Doss, Jr., filed a Notice of Appeal which is construed as containing a motion for certificate of appealability. He also filed a motion for leave to proceed on appeal *in forma pauperis*. (Doc. Nos. 30-31.)

28 U.S.C. § 1915(a) provides that “[a]n appeal may not be taken *in forma pauperis* if the trial court certifies in writing that it is not taken in good faith.” In making this determination as to good faith, the court must use an objective standard, such as whether the appeal is “frivolous,” Coppedge v. United States, 369 U.S. 438, 445 (1962), or “has no substantive merit.” United States v. Bottoson, 644 F.2d 1174, 1176 (5<sup>th</sup> Cir. Unit B. May 15, 1981) (per curiam). Applying this standard, the court is of the opinion, for the reasons stated in the recommendation of the magistrate judge (Doc. No. 16), that Doss’s appeal is without a legal or factual basis and, accordingly, is frivolous and not taken in good faith. See Rudolph v. Allen, 666 F.2d 519, 520 (11<sup>th</sup> Cir. 1982) (per curiam).

Accordingly, it is CONSIDERED and ORDERED that Doss’s motion to proceed on appeal *in forma pauperis* and motion for certificate of appealability be and the

same are hereby DENIED and that the appeal in this cause is hereby certified, pursuant to 28 U.S.C. § 1915(a), as not taken in good faith.

DONE this 27<sup>th</sup> day of April, 2005.

/s/ Ira DeMent  
SENIOR UNITED STATES DISTRICT JUDGE